REMARKS/ARGUMENTS

The July 1, 2003 Official Action and references cited therein have been carefully considered. In view of the amendments submitted herewith and the following remarks, favorable reconsideration and allowance of this application are respectfully requested. This Reply is accompanied by a Request for Continued Examination.

Status of the prosecution:

Claims 1-4, 6, 8-10, 12-17, 19-22 and 25 are pending and were examined. Applicants' amendments filed April 17, 2003 (Paper No. 13), have been entered.

Claims 1, 2, 6, 8-10, 12-15, 19-22 and 25 remain rejected under 35 U.S.C. §112, first paragraph, for allegedly containing subject matter that was not adequately described in the specification.

Claims 4 and 17, drawn to a plasmid, remain rejected under 35 U.S.C. §112, first paragraph, for allegedly containing subject matter that is not enabled by the specification. Claims 1, 2, 6, 8-10, 12-15, 19-22 and 25 also remain rejected under 35 U.S.C. §112, first paragraph, for alleged lack of enablement by the specification.

Claims 1, 9 and 14, and claims dependent thereon, stand rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness in the recitation of "salt tolerant." Claims 13 and 21, and claims dependent thereon, stand rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness in the recitation of "drought tolerant." Claims 10 and 22, and claims dependent thereon, stand rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness in the recitation of "a transgenic seed." The Action suggests amending the claims to indicate the identity of the transgene carried in the transgenic seed.

Claims 1, 2, 6, 8-10, 12-15, 19-22 and 25 remain rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Rathinasabapthi et al. (Planta, 1994, 193: 155-162) in view of Hartman et al. (BioTechnology, 1994, 12: 919-923) and Marcum (J. Amer. Soc. Hort. Sci., 1994, 119: 779-784).

Claims 2-4 and 15-17 are canceled herein. Claims 1, 8-10, 12-14 and 20-22 are amended herein. No new matter has been added. Applicants respectfully assert that the presently amended claims are in condition for allowance, for the reasons set forth below.

The amended claims satisfy the written description requirement of 35 U.S.C. §112, first paragraph:

Claims 1, 2, 6, 8-10, 12-15, 19-22 and 25 stand rejected under 35 U.S.C. §112, first paragraph, for allegedly containing subject matter that was not adequately described in the specification. Claims 2 and 15 are canceled herein, so the rejection is moot with respect to those claims. The limitations of claims 3 and 16 have been incorporated into independent claims 1 and 14, respectively. Inasmuch as claims 3 and 16 were not rejected for lack of adequate written description, it is believed that incorporation of those limitations into the respective independent claims overcomes the rejection of independent claims 1 and 14, and all claims dependent therefrom. Accordingly, withdrawal of the "written description" rejection under 35 U.S.C. §112, first paragraph is requested.

The amended claims satisfy the enablement requirement of 35 U.S.C. §112, first paragraph:

Claims 4 and 17, drawn to a plasmid, stand rejected under 35 U.S.C. §112, first paragraph, for allegedly containing subject matter that is not enabled by the specification. Claims 4 and 17 are canceled herein, so the rejection of those claims is moot.

Claims 1, 2, 6, 8-10, 12-15, 19-22 and 25 stand rejected under 35 U.S.C. §112, first paragraph, for alleged lack of enablement by the specification. Claims 2 and 15 are canceled herein, so the rejection is moot with respect to those claims. The limitations of claims 3 and 16 have been incorporated into independent claims 1 and 14, respectively. Inasmuch as claims 3 and 16 were not rejected for lack of enablement, it is believed that incorporation of those limitations into the respective independent claims overcomes the rejection of independent claims 1 and 14 and all claims dependent therefrom. Accordingly, withdrawal of the "enablement" rejection under 35 U.S.C. §112, first paragraph is requested.

The amended claims satisfy the definiteness requirement of 35 U.S.C.§112, second paragraph:

Claims 1, 9 and 14, and claims dependent thereon, stand rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness in the recitation of "salt tolerant." Claims 13 and 21, and claims dependent thereon, stand rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness in the recitation of "drought tolerant." The rejection was maintained on the ground that it is unclear what the comparative basis for tolerance is. Claims 1, 9 and 13, 14 and 21 have been amended to recite that the comparative basis for

tolerance is with an equivalent cell or plant that does not comprise the transgene. The term "equivalent," with respect to plants and plant cells, is defined in the specification at page 6, lines 18-25. Applicants assert that amended claims 1, 9 and 13, 14 and 21, and claims dependent thereon, meet all requirements of 35 U.S.C. §112, second paragraph. Withdrawal of the rejection is therefore requested.

Claims 10 and 22, and claims dependent thereon, stand rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness in the recitation of "a transgenic seed." The examiner has suggested amending the claims to indicate the identity of the transgene carried in the transgenic seed. Claims 10 and 22 have been amended in accordance with the examiner's suggestion. Therefore, withdrawal of the rejection of claims 10 and 22, and claims dependent therefrom, under 35 U.S.C. §112, second paragraph, is respectfully requested.

The subject matter of the amended claims is not obvious in view of the cited references:

Claims 1, 2, 6, 8-10, 12-15, 19-22 and 25 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Rathinasabapthi et al. (Planta, 1994, 193: 155-162) in view of Hartman et al. (BioTechnology, 1994, 12: 919-923) and Marcum (J. Amer. Soc. Hort. Sci., 1994, 119: 779-784). Claims 2 and 15 are canceled herein, so the rejection is moot with respect to those claims. The limitations of claims 3 and 16 have been incorporated into independent claims 1 and 14, respectively. Inasmuch as claims 3 and 16 were not rejected for obviousness, it is believed that incorporation of those limitations into the respective

independent claims overcomes the rejection of independent claims 1 and 14 and all claims dependent therefrom. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) is requested.

Conclusion:

Applicants believe the present paper to be fully responsive to all outstanding issues. In view of the amendments presented herewith and the foregoing remarks, the claims are considered to be in condition for allowance and the same is earnestly sought in an early and favorable action. If further discussion would facilitate advancement of this application to allowance, the examiner is invited to contact the undersigned attorney at the telephone number provided below.

Respectfully submitted,

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Janet E. Reed, Ph.D.
Registration No. 36,252

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439